

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

11 UNITED STATES OF AMERICA, ) 3:11-cr-00013-HDM-VPC  
12 Plaintiff, ) 3:16-cv-00342-HDM  
13 vs. ) ORDER  
14 RYAN ROSS McKENDRY-VERHUNCE, )  
15 Defendant. )  
\_\_\_\_\_ )

16 On January 4, 2017, the court denied the defendant's motion to  
17 vacate, set aside, or correct sentence pursuant to 28 U.S.C. §  
18 2255. (ECF Nos. 64 & 65). The court now considers whether to  
19 grant defendant a certificate of appealability for any appeal of  
20 its order.

21 The standard for issuance of a certificate of appealability  
22 calls for a "substantial showing of the denial of a constitutional  
23 right." 28 U.S.C. § 2253(c). The Supreme Court has interpreted 28  
24 U.S.C. § 2253(c) as follows: "Where a district court has rejected  
25 the constitutional claims on the merits, the showing required to  
26 satisfy § 2253(c) is straightforward: The defendant must  
27 demonstrate that reasonable jurists would find the district court's  
28

1 assessment of the constitutional claims debatable or wrong." *Slack*  
 2 *v. McDaniel*, 529 U.S. 473, 484 (2000); see also *James v. Giles*, 221  
 3 F.3d 1074, 1077-79 (9th Cir. 2000). The Supreme Court further  
 4 illuminated the standard for issuance of a certificate of  
 5 appealability in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). The  
 6 Court stated in that case:

7 We do not require petitioner to prove, before the  
 8 issuance of a COA, that some jurists would grant the  
 9 petition for habeas corpus. Indeed, a claim can be  
 10 debatable even though every jurist of reason might  
 11 agree, after the COA has been granted and the case  
 12 has received full consideration, that petitioner  
 13 will not prevail. As we stated in *Slack*, "[w]here a  
 14 district court has rejected the constitutional  
 15 claims on the merits, the showing required to  
 16 satisfy § 2253(c) is straightforward: The petitioner  
 17 must demonstrate that reasonable jurists would find  
 18 the district court's assessment of the  
 19 constitutional claims debatable or wrong."

20 *Miller-El*, 123 S.Ct. at 1040 (quoting *Slack*, 529 U.S. at 484).

21 The court has considered the issues raised by defendant, with  
 22 respect to whether they satisfy the standard for issuance of a  
 23 certificate of appeal, and determines that none meet that standard.  
 24 The court therefore denies a certificate of appealability with  
 25 respect to any appeal of the court's denial of defendant's 28  
 26 U.S.C. § 2255 motion.

27 IT IS SO ORDERED.

28 DATED: This 6th day of January, 2017.



29 UNITED STATES DISTRICT JUDGE